



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Hudson Canyon National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of intent to hold public scoping meetings and prepare a draft environmental impact statement; request for comments.

SUMMARY: In accordance with the National Marine Sanctuaries Act (NMSA) and National Environmental Policy Act (NEPA), the National Oceanic and Atmospheric Administration (NOAA) is initiating a scoping process to consider designating a national marine sanctuary in the Hudson Canyon area approximately 100 miles offshore southeast of New York City. NOAA is initiating this scoping process based on the area's diverse qualities, which are described in the Wildlife Conservation Society's (WCS's) November 2016 Hudson Canyon national marine sanctuary nomination. Specifically, WCS's nomination provides important context and background regarding the natural and cultural resources in the region, the potential benefits of national marine sanctuary designation, recommendations for management of the sanctuary, and a proposed sanctuary boundary, which NOAA will take under consideration, but does not represent an official boundary proposal at this time. As a first step in this scoping process, NOAA invites comments on the factors that will contribute to its determination of whether to designate the area as a national marine sanctuary; designation would include preparation and release of a draft environmental impact statement (including national marine sanctuary boundary alternatives), proposed regulations, and a draft management plan. This scoping process

will also inform the initiation of any consultations with Federal, State, or local agencies, Tribes, and other interested parties, as appropriate. In support of the scoping process, the nomination package and additional information regarding the qualities of the Hudson Canyon area can be found at <https://sanctuaries.noaa.gov/ HUDSON-CANYON/>.

DATES: *Comments due:* [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Public Meetings: NOAA will host four public meetings during the scoping process, two virtual and two in-person. The virtual public scoping meetings will occur at the following dates and times:

- Thursday, June 23, 2022, 3:00 p.m. to 5:00 p.m. Eastern Time
- Wednesday, August 3, 2022, 5:00 p.m. to 7:00 p.m. Eastern Time

The in-person scoping meetings will occur at the following dates and times:

- New York City, NY

Date: July 19, 2022

Location: Alexander Hamilton U.S. Customs House, Naval Officers Room

Address: 1 Bowling Green, New York, NY 10004

Time: 6:30 - 8:00 p.m.

- West Long Branch, NJ

Date: July 21, 2022

Location: Monmouth University, Urban Coast Institute, Edison Building Atrium-E201

Address: 400 Cedar Avenue, West Long Branch, NJ 07764

Time: 6:30 - 8:00 pm

Please check <https://sanctuaries.noaa.gov/ HUDSON-CANYON/> for meeting links and the most up-to-date information, should plans for these public meetings change. NOAA may end a

virtual or in-person meeting before the time noted above if all participants have concluded their oral comments.

ADDRESSES: You may submit comments, identified by NOAA-NOS-2022-0053, by any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov> and enter “NOAA-NOS-2022-0053” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comment.
- Mail: Send any hard copy public comments by mail to: LeAnn Hogan, NOAA Office of National Marine Sanctuaries, 1305 East-West Highway, SSMC4, Silver Spring, MD 20910. Note the docket number (i.e., NOAA-NOS-2022-0053) at the top of the comment.
- Public Scoping Meetings: Provide oral comments during public scoping meetings, as described under DATES. Webinar registration details and additional information about how to participate in these virtual and in-person public scoping meetings is available at <https://sanctuaries.noaa.gov/ HUDSON-CANYON/>

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Comments that are not responsive or contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: LeAnn Hogan, (202) 731-0678, LeAnn.Hogan@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Area Under Consideration

The National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 *et seq.*, authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or aesthetic qualities. The primary objective of the NMSA is to protect the resources of the National Marine Sanctuary System. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to NOAA's Office of National Marine Sanctuaries (ONMS).

In November 2016, WCS submitted a nomination to NOAA through the Sanctuary Nomination Process (79 FR 33851), asking NOAA to consider designating the Hudson Canyon area as a national marine sanctuary to conserve its nationally significant ecological and biological resources and to expand upon existing local and state efforts to study, interpret, and promote the area's ecological and biological uniqueness. The nomination was endorsed by a diverse coalition of organizations and individuals at local, state, and national levels including elected officials, businesses, shipping industry representatives, recreational users, conservation and academic organizations, tourism companies, aquariums and zoos, historical societies, and education groups. NOAA added the area to the inventory of successful nominations that are eligible for designation in February 2017, and extended it on the inventory in February 2022 after its five-year review of the nomination (87 FR 11049).

The Hudson Canyon (Canyon) is the largest submarine canyon along the United States' Atlantic coast and is one of the largest in the world. Its presence is critical to the support of resident and migratory marine wildlife in the New York Bight, as well as in the Mid-Atlantic region. Rivaling the depth and scale of the Grand Canyon, the

Canyon extends about 560 km (350 mi) seaward, reaches depths of 3-4 km (2-2.5 mi), and is up to 12 km (7.5 mi) wide. Despite its size and proximity to one of the world's largest metropolitan centers in New York City, few know of this area that William Beebe described as a "stately, invisible gorge" when he first explored it during his 1925 expedition on the vessel *Arcturus*.

The Canyon's grand scale and diverse structure—steep slopes, firm outcrops, diverse sediments, flux of nutrients, and areas of upwelling—make it an ecological hotspot for a vast array and abundance of marine wildlife. The Canyon provides habitat for a range of endangered, protected, and sensitive species including the sperm whale, sea turtles, and unique and diverse seep communities. The Canyon also provides invaluable habitat for hundreds of species of bony and cartilaginous fishes and invertebrates. One unique aspect of the Canyon among marine habitats in the New York Bight is the presence of deep sea, cold-water coral communities. Rocky outcrops and boulders at the head of the Canyon and along its steep walls provide the hard substrate needed for attachment by hard and soft corals, sea pens, anemones, and sponges.

The robust biodiversity of the Canyon directly supports the local economy by providing productive waters and habitats for the fish and invertebrates on which commercial and recreational fisheries depend. Recreational divers explore some of the shallower areas in and around the Canyon, and the yearly migration of whales and seabirds through the Canyon attracts whale watchers and birders. In addition to supporting diverse fisheries and wildlife tourism, the waters surrounding the Canyon also hold historical and cultural importance to those living along its shores in New York and New Jersey. The types of shipwrecks found within the Hudson Canyon area vary from freighters to United States military radar platforms, some dating back to the mid-19th Century.

The area also supports a number of human activities. Commercial vessels regularly traverse the waters above the Canyon to enter New York City, one of the world's busiest ports. New York is also a critical trans-Atlantic telecommunications hub, connecting the east coast of the United States to the rest of the world. There are 26 submarine telecommunication cables and cable segments that make landfall in New York and New Jersey, with at least nine of these cables crossing, or running adjacent to, the Canyon. Various types of commercial and recreational fishing occur in and around the Canyon.

There are nine federally and state-recognized Tribes and Tribal Nations in New York State (i.e., Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Saint Regis Mohawk Tribe, Seneca Nation, Shinnecock Nation, Tonawanda Band of Seneca, Tuscarora Nation of New York, and the Unkechaug Nation) and three Tribes acknowledged by the State of New Jersey, which serve on the New Jersey Commission of American Indian Affairs (i.e., the Nanticoke Lenni-Lenape, Powhatan Renape, and the Ramapough Lenape Tribes). Past and current Indigenous communities have maintained strong oral traditions and cultural practices tied to the ocean and coastal waters in this region. They rely on a number of species that depend on the Canyon for part of their life cycle. In order to strengthen our knowledge of the historical and cultural significance of the Canyon, NOAA is requesting input on Tribal and Indigenous communities' connections to this area.

The Hudson Canyon begins approximately 100 miles southeast of New York City and extends 350 miles seaward, reaching depths of up to two and a half miles and expanding up to seven miles at its widest points. A visual of the Canyon and its adjacent waters, which may be considered for sanctuary designation, can be found at <https://sanctuaries.noaa.gov/ HUDSON-CANYON/>. This visual is for reference purposes only during the scoping process; it does not constitute a proposed boundary for sanctuary

designation. Instead, NOAA is seeking recommendations for the sanctuary boundary during the public scoping process, and based on this and other formal input, NOAA will release draft sanctuary boundary alternatives for public review and comment should it decide to move forward with the designation process.

Based on the WCS nomination and guided by the purposes and policies of the NMSA, NOAA has identified five overarching goals for the proposed sanctuary designation:

- Support conservation of the area’s marine wildlife, habitats, and maritime cultural resources;
- Work closely with Tribal partners to identify and raise awareness of Indigenous connections to the area;
- Highlight and promote sustainable uses of the area;
- Expand ocean science and monitoring in, and education and awareness of the area; and
- Provide a platform for collaborative and diverse partnerships that support effective and inclusive long-term management of the area.

II. Items of Particular Interest During the Public Scoping Process

While the public may comment on all matters viewed as relevant to the potential designation of a national marine sanctuary in the Canyon, NOAA is requesting input on the following specific topics to help guide the scoping process:

- boundary alternatives for the proposed sanctuary that strive to meet the goals identified above;
- the location, nature, and value of natural and cultural resources in the area under consideration;
- specific threats to these resources;

- information on the Indigenous and Tribal heritage of the area;
- the non-regulatory actions NOAA should prioritize within its draft management plan for the proposed sanctuary;
- the regulatory framework most appropriate for management of the proposed sanctuary;
- the benefits to the “blue economy” of the region, including promoting sustainable tourism and recreation; and
- a permanent name for the proposed sanctuary.

Comments may be submitted to NOAA by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] using the methods described in ADDRESSES. NOAA will host public scoping meetings during the public comment period, as described under DATES.

III. Sanctuary Designation Process

The designation process includes the following well-established and highly participatory stages:

1. Public Scoping Process — Information collection and characterization, including the consideration of public comments received during scoping;
2. Preparation of Draft Documents — Preparation and release of draft designation documents, including: a draft environmental impact statement (DEIS), prepared pursuant to NEPA, that identifies boundary and/or regulatory alternatives; a draft management plan; and a notice of proposed rulemaking to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with Federal, State, or local agencies, Tribes, and other interested parties, as appropriate;
3. Public Comment — Through public meetings and in writing, allow for public review and comment on a DEIS, draft management plan, and notice of proposed rulemaking;

4. Preparation of Final Documents — Preparation and release of a final environmental impact statement (FEIS), final management plan, including a response to public comments, and a final rule and regulations.

5. Review Period — The sanctuary designation and regulations would take effect after the end of a review period of forty-five days of a continuous session of Congress. During this same period, should the designation include State waters, the Governor of the State has the opportunity to concurrently review the terms of designation including boundaries within State waters.

IV. Development of a Draft Environmental Impact Statement

In accordance with the NMSA and NEPA, NOAA must draft an environmental impact statement when designating a new national marine sanctuary. The input gathered during the public scoping process is fundamental to NOAA's development of a DEIS.

A. Purpose and Need for Sanctuary Designation

The purpose and need for a sanctuary designation in the Hudson Canyon area is to fulfill the purposes and policies outlined in section 301(b) of the NMSA, 16 U.S.C. 1431(b), including to identify and designate as national marine sanctuaries areas of the marine environment that are of special national significance, provide authority for comprehensive and coordinated conservation and management of these marine areas, and protect the resources of these areas. In particular, a sanctuary designation would:

- Develop coordinated and collaborative marine science, education and outreach, and cultural heritage programs to assist in promoting and managing the area's nationally significant resources;
- Highlight the many diverse human activities, cultural connections and maritime heritage of the area, from the Indigenous communities to existing activities in the area;

- Respond to community interest in conserving the natural environments, wildlife and cultural resources of this area; and
- Provide additional conservation and comprehensive ecosystem-based management to address threats to the area's nationally significant resources.

B. Preliminary Description of Proposed Action and Alternatives

NOAA's proposed action is to consider designating the Hudson Canyon national marine sanctuary in accordance with the sanctuary designation process described in section 304 of the NMSA (16 U.S.C. 1434). Through the public scoping process and as part of the sanctuary designation process, NOAA will develop draft designation documents including a draft sanctuary management plan, proposed sanctuary regulations, and proposed terms of designation. The NEPA process for sanctuary designation will include preparation of a DEIS to consider alternatives and describe potential effects of the sanctuary designation on the human environment. A DEIS will evaluate a reasonable range of action alternatives that could include different options for management plan goals, sanctuary regulations, and potential boundaries. A DEIS will also consider a No Action Alternative, wherein NOAA would not designate a national marine sanctuary.

C. Summary of Expected Impacts of Sanctuary Designation

A DEIS will identify and describe the potential effects of the proposed action and reasonable alternatives on the human environment. Potential impacts may include, but are not limited to, impacts on the area's biological and physical resources, including habitats, plants, birds, sea turtles, marine mammals, and special status species; maritime, cultural, and historical resources; and human uses and socioeconomics of the area, including research, recreation, education, energy production, and fishing. Based on a preliminary evaluation of the resources listed above, NOAA expects potential positive impacts to the environment from enhanced protection of the area's natural, cultural, and historical resources; improved planning and coordination of research, monitoring, and

management actions; reduced harmful human activities and disturbance of special status species; reduced threats and stressors to resources; and minimal disturbance during research.

D. Schedule for the Decision-Making Process

NOAA expects to make a DEIS and other draft documents available to the public by spring 2023. NOAA expects to make a FEIS available to the public by spring 2024. A Record of Decision and the final management plan and final rule will be completed no sooner than 30 days after the FEIS is made available to the public, in accordance with 40 CFR 1506.11

E. NEPA Lead and Cooperating Agency Roles

NOAA is the lead Federal agency for the NEPA process for the proposed action. NOAA may invite other Federal, Tribal, State, and local government agencies to become cooperating agencies in the preparation of the EIS for the proposed action. NEPA regulations specify that a cooperating agency means any Federal agency (and a State, Tribal, or local agency with agreement of the lead agency) that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) (40 CFR 1508.1(e)).

F. Anticipated Permits, Authorizations, and Consultations

Federal, state, and local permits, authorizations, or consultations may be required for the proposed action, including consultation or review under section 304(a)(5) of the NMSA, 16 U.S.C. 1434(a)(5), regarding consultation with appropriate Fishery Management Councils, Endangered Species Act, 16 U.S.C. 1531 *et seq.*, Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, National Historic Preservation Act, 54 U.S.C. 300101 *et seq.*, and Executive Order 13175, consistency review under the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*, and possibly reviews under other laws and regulations determined to be applicable

to the proposed action. To the fullest extent possible, NOAA will prepare a DEIS concurrently and integrated with analyses required by other Federal environmental review requirements, and a DEIS will list all Federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action. *See* 40 CFR 1502.24.

V. Consultation Under Section 106 of the National Historic Preservation Act and Executive Order 13175

This notice confirms that NOAA will coordinate its responsibilities under section 106 of the National Historic Preservation Act (NHPA) during the sanctuary designation process and is soliciting public and stakeholder input to meet section 106 compliance requirements. The NHPA section 106 consultation process specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(l)(1), historic properties include: “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization that meet the National Register criteria.”

This notice also confirms that, with respect to the proposed sanctuary designation process, NOAA will fulfill its responsibilities under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” and NOAA’s implementing policies and procedures. Executive Order 13175 requires Federal agencies to establish procedures for meaningful consultation and coordination with tribal officials in the development of Federal policies that have Tribal implications. NOAA implements Executive Order 13175 through NOAA Administrative Order 218-8 (Policy on Government-to-Government Consultation with Federally-Recognized Indian Tribes and

Alaska Native Corporations), and the NOAA Tribal Consultation Handbook. Under these policies and procedures, NOAA offers affected federally recognized Tribes government-to-government consultation at the earliest practicable time it can reasonably anticipate that a proposed policy or initiative may have Tribal implications.

Authority: 16 U.S.C. 1431 *et seq.*; 42 U.S.C. 4321 *et seq.*; 40 CFR 1500-1508 (NEPA Implementing Regulations); Companion Manual for NOAA Administrative Order 216-6A.

John Armor,

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